

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

TYRONE COLLINS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CHIEF U.S. MARSHAL, et al.,	)	
	)	
Defendants.	)	Civil Action No. 3:16-CV-1788-C

**ORDER**

Plaintiff, Tyrone Collins, filed a § 1983 complaint on June 8, 2016, and the case was referred to the United States Magistrate Judge pursuant to Special Order No. 3–251. The Magistrate Judge entered a Notice of Deficiency and Order, notifying Collins that his complaint was not properly signed and was not filed on the appropriate form. The Magistrate Judge ordered Collins to correct these deficiencies within thirty (30) days and warned him that failure to do so would result in a recommendation of dismissal for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b). Collins failed to respond or otherwise amend his pleadings. The Magistrate Judge entered his Findings, Conclusions, and Recommendation on August 16, 2016, recommending that the case be dismissed for failure to prosecute. Collins filed

his “Specific Objections to the Magistrate R & R” on August 27, 2016, together with a First Amended Complaint and a Motion to Expedite.<sup>1</sup>

While Collins’s “specific objections” are not truly very specific, the Court discerns that Collins’s sole objection to the Magistrate Judge’s Recommendation is that Collins, by filing his First Amended Complaint, has “vigorously complied with all requests” of the Magistrate Judge and the recommendation to dismiss is now rendered moot. *See* Objections, ECF No. 7. The Court disagrees that Collins has now complied with all the requirements of the Magistrate Judge. First, while his First Amended Complaint is now signed, it is still not presented on the Northern District’s complaint form for prisoner’s civil rights complaints that was provided to Collins with the Notice of Deficiency. Second, while Collins has filed his First Amended Complaint as of August 27, 2016, the Magistrate Judge’s deadline for him to file this amended pleading was thirty (30) days and that deadline expired on August 8, 2016 (applying the 3-day mailbox rule). Collins cannot demonstrate that he has complied with the Magistrate Judge’s order by filing an Amended Complaint (that is still in an improper form) only after the Magistrate Judge has recommended dismissal for failure to prosecute. The Court is therefore of the opinion that Collins’s Objections should be **OVERRULED**.

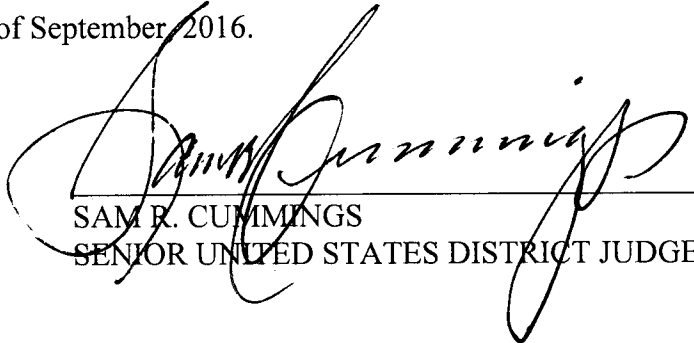
The Court notes that Collins’s objections to the Magistrate Judge’s Recommendation can further be construed to include a “Motion for Certification of Class Action” and a “Request for the Court to Enter a Scheduling Order.” *See* Objections, ECF No. 7. To the extent that Collins seeks to raise these motions with the Court through his objections, they are **DENIED**.

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<sup>1</sup>These were received and docketed on September 7, 2016, but are deemed filed as of August 27, 2016, when Collins’s Proof of Service attests that they were deposited in the mail.

For the reasons stated above, it is hereby **ORDERED** that the findings and conclusions in the Recommendation are hereby **ADOPTED** as the findings and conclusions of the Court, and the above-styled and -numbered civil action is **DISMISSED without prejudice**. Any pending motions are **DENIED as moot**, and all relief not expressly granted by this Order is **DENIED**.

SO ORDERED this 9<sup>th</sup> day of September 2016.



SAM R. CUMMINGS  
SENIOR UNITED STATES DISTRICT JUDGE